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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,789	07/23/2002	Hans-Ulrich Krotil	TIL0003	8707

7590

05/20/2004

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EXAMINER
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NOLAND, THOMAS

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/869,789

Applicant(s)

KROTIL ET AL.

Examiner

Thomas P. Noland

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11052003
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

1. The amendment filed February 23, 2004 has been entered except for the amendments to the specification which were unclear since they did not appear to be amending the specification as filed but one that has already been previously amended. There is no record of such an amendment in the file.

2. If such an amendment was previously filed it should be resubmitted and the amendments to the specification filed February 23, 2004 resubmitted. If not submitted the amendments should be represented in a manner consistent with the specification as originally filed in order to overcome the specification objections made in the last office action.

3. Claims 28-40 and 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For accuracy in claiming at least 2 measurements and consisting with applicant's arguments in claim 28: in line 12 "at least one of: a" should be replaced with --- a --- and in line 15 "at least one" should be deleted.

In claim 29, line 1 "claim 1" should be -- claim 28 --. In claim 34, line 1 "claim 30" should apparently be --- claim 32 --- since there was no first frequency in claim 30 but there was one in claim 32. For clarity after "chosen" in claim 43, line 2 --- is --- should be inserted.

4. Claims 28-31 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Watnabe et al, publication cited in IDS of 11/5/03.

Note especially abstract, figs. 1-2, and section III on pp. 1578-1579.

5. Claims 28-31 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamanaka et al US 5,804,708, cited in IDS of 11/5/03.

Note especially abstract, Fig. 1 and col. 2, lines 22-46.

6. Claims 28-31 38-43 and 50-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Goddenhenrich et al. publication cited in IDS of 11/5/03.

Note especially abstract, figs. 1-7, section I, 2<sup>nd</sup> paragraph and section II.

7. Claims 32-33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al or Yamanaka et al US 5,804,708.

Claims 32-33, 36 and 44-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goddenhenrich et al.

The references do not disclose all of the particular frequency and amplitude ranges claimed but are believed to be well within the ranges typically and known to be useful in such systems and thus would have been obvious to have been used in systems similar to that of Watanabe et al, Yamanaka et al, or Goddenhenrich et al to take advantage of their known utilities in such systems.

8. Claims 34-35 and 37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Applicant's arguments with respect to claims 28-54 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on November 5, 2003 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

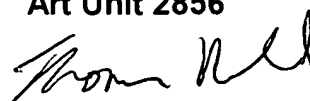
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (571) 272-2202. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (571) 272-2208.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

5/18/04  
Thomas P. Noland  
Primary Examiner  
Art Unit 2856



Noland/ds

May 14, 2004